

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF HEALTH

In the Matter of the Proposed Expedited  
Amendments to Permanent Rules Relating  
to Health Care Quality Measures,  
*Minnesota Rules*, Chapter 4654

**ORDER ON REVIEW  
OF RULES UNDER  
MINN. STAT. § 14.389  
AND MINN. R. 1400.2410**

On October 14, 2013, the Department of Health (Department or MDH) filed documents with the Office of Administrative Hearings (OAH) seeking review and approval of the above-entitled rules under Minn. Stat. § 14.389 and Minn. R. 1400.2410.

Based upon a review of the written submissions by the Department, and the contents of the rulemaking record,

**IT IS HEREBY ORDERED THAT:**

1. According to Minn. Stat. § 62U.06, subd. 3, the Department has the statutory authority to adopt these proposed amendments to rules using the expedited rulemaking process.
2. The proposed amendments to rules were adopted in compliance with the procedural requirements of Minnesota Statutes, chapter 14, and Minnesota Rules, chapter 1400.
3. The proposed amended rule parts are **APPROVED**.

Dated: October 25, 2013

s/LauraSue Schlatter  
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LAURASUE SCHLATTER  
Administrative Law Judge

## MEMORANDUM

### Background

As part of its 2008 comprehensive health care reform law, the Minnesota legislature required the Department to create a standardized set of quality health care measures and a quality reporting system. The purpose of the system was to produce useable information available to payers and consumers for health care decision-making. To assist in this goal, the legislature granted the Department expedited rulemaking authority.<sup>1</sup>

This authority enables the Department to modify its Minnesota Statewide Quality Reporting and Measurement System (SQRMS), contained in Minnesota Rules, chapter 4654 and its related appendices, annually, if needed. This is consistent with the Department's statutory obligation under Minn. Stat. § 62U.02 to review the quality measures annually.<sup>2</sup>

### Substantial Difference

The Department's rule amendments as adopted incorporate a number of changes based on feedback from various stakeholders in response to the Proposed Expedited Amendments as originally published in the *State Register* August on 12, 2013.<sup>3</sup> The Administrative Law Judge finds that none of the changes to the proposed rules make the rules substantially different than those originally published in the *State Register*.

### Response to Comments

The Department received written comments from the Minnesota Medical Association (MMA), Shaller Consulting Group and Zema Consulting, and the Minnesota Association of Community Health Centers (MNACHC).<sup>4</sup> The MNACHC was the only commenter that raised concerns calling for significant changes to the proposed amendments to the rules.

For example, the MNACHC expressed concerns that the model of reporting composite measures for optimal diabetes care and optimal vascular care penalizes safety net providers with diverse, and vulnerable, clients. The Department responded that it will report the composite measures and their individual measure components on its website. Another concern raised by the MNACHC is that it is uneasy with patient surveys for English-speaking patients only. The Department responded that the Agency

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<sup>1</sup> Minn. Stat. § 62U.06, subd. 3 (2013).

<sup>2</sup> See Cover Memo to Office of Administrative Hearings from Edward P. Ehlinger, Commissioner of Health, p. 1 (October 14, 2013).

<sup>3</sup> *Id.*, pp. 4-11 (The changes, which are mostly technical in nature, are described in detail in this document.)

<sup>4</sup> See Department's Ex. 5.

for Healthcare Quality and Research is the steward of patient experience care surveys, and that the Department does not have the funding to translate the survey instrument into other languages.<sup>5</sup>

None of the MNACHC's concerns are within the scope of review under Minn. Stat. § 14.389 and Minn. R. 1400.2410. The Administrative Law Judge acknowledges that the MNACHC raised several concerns, and the Department responded in the record filed for review. Given the limited scope of review, the Administrative Law Judge encourages the Department and the MNACHC to continue to discuss these issues with the goal of including all populations in the health care quality measures.

**L.S.**

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<sup>5</sup> See Department's Ex. 8.